

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 247 be amended to read as follows:

- 1 Page 9, between lines 29 and 30, begin a new paragraph and insert:
- 2 "SECTION 5. IC 8-3-23 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2006]:
- 5 **Chapter 23. Local Rail Safety**
- 6 **Sec. 1. Not later than January 15 of each year, a rail operator**
- 7 **shall submit a risk assessment of the rail operator's facilities to the**
- 8 **department of homeland security and the department of**
- 9 **transportation. A risk assessment submitted under this section**
- 10 **must include the following:**
- 11 **(1) A description of the facilities of the rail operator and the**
- 12 **functions of the facilities.**
- 13 **(2) The types of cargo transported through the facilities**
- 14 **during the immediately preceding calendar year, including the**
- 15 **approximate quantity of hazardous materials or oil subject to**
- 16 **Chapter 1 of Subtitle B of Title 49 of the Code of Federal**
- 17 **Regulations.**
- 18 **(3) The extent to which hazardous materials or oil is stored in**
- 19 **the facilities, including the location and approximate quantity**
- 20 **of the hazardous material or oil.**
- 21 **(4) The location of a rail facility through or at which**
- 22 **hazardous materials or oil is transported or stored, if the rail**
- 23 **facility is located within a fifteen (15) mile radius of a school,**
- 24 **a hospital, a nursing home, a utility, or a public safety facility.**
- 25 **(5) The rail operator's security plan, including:**

- (A) practices of the rail operator designed to prevent acts of sabotage or terrorism or other crimes on rail facilities;
- (B) security training provided to the rail operator's employees;
- (C) emergency response procedures for acts of sabotage or terrorism or other crimes; and
- (D) communication procedures with state and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.

Sec. 2. (a) Not later than July 15 of each year, a rail operator shall adopt a community protection plan to protect rail facilities and infrastructure from acts of sabotage or terrorism or other crimes.

(b) A community protection plan adopted under subsection (a) must do the following:

- (1) Provide for the security of critical rail infrastructure, including points of vulnerability of the rail system through which hazardous materials or oil is transported. Points of vulnerability include rights-of-way, rail yards, bridges, tunnels, and signal systems.**
- (2) Describe the rail operator's methods for protecting critical infrastructure from acts of sabotage or terrorism or other crimes.**
- (3) Describe the training provided by the rail operator to the rail operator's employees to enable the employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.**
- (4) Describe the emergency response procedures of the rail operator in dealing with acts of sabotage or terrorism or other crimes.**
- (5) Describe the communication procedures with state and local officials, law enforcement officers, and emergency responders in the event of an act of sabotage or terrorism or any other crime.**

(c) This subsection applies to a rail facility through or at which hazardous materials or oil is shipped or stored, if the rail facility is located within a fifteen (15) mile radius of a school, a hospital, a nursing home, a utility, or a public safety facility. In addition to the requirements described in subsection (b), the community protection plan adopted by the rail facility must do the following:

- (1) Provide for regular inspection of the rail facility by trained personnel to determine the condition of the facility and its vulnerability to acts of sabotage or terrorism or other crimes.**
- (2) Provide for storage of hazardous materials or oil in secure facilities. For purposes of this subdivision, a right-of-way is**

not a secure facility.

(3) Set forth procedures to prevent the running of locomotive equipment while unattended and leaving unattended locomotive equipment unlocked.

(4) Prescribe methods by which the cabs of occupied locomotives may be secured against unauthorized entry.

(5) Provide security for remote control locomotives to prevent unauthorized use.

(6) Limit the use of remote control locomotives to trains that are not transporting or storing hazardous materials or oil.

(d) Not more than fifteen (15) days after adopting a community protection plan, a rail operator shall submit a copy of the rail operator's community protection plan to the department of homeland security and the department of transportation. The department of transportation may modify a community protection plan to comply with this section.

(e) Each day that a rail operator fails to:

(1) adopt a community protection plan as required by this section; or

(2) submit a community protection plan for review under subsection (d);

constitutes a separate violation of this section. The department of transportation may impose a fifty thousand dollar (\$50,000) fine for each violation.

Sec. 3. (a) A rail operator, including a contractor or subcontractor of the rail operator, may not discharge, discriminate against, or otherwise discipline an employee who reports a violation of this chapter.

(b) An employee who is the subject of a violation of this section may seek punitive damages not to exceed one million dollars (\$1,000,000), in addition to other available remedies.

Sec. 4. A rail operator, including a contractor or subcontractor of the rail operator, shall provide ongoing training to the rail operator's employees to enable the employees to identify and respond to security threats, including acts of sabotage or terrorism or other crimes.

Sec. 5. A rail operator shall conduct background checks of employees of the rail operator and of contractors or subcontractors of the rail operator."

Page 23, line 27, delete ", at its discretion,".

Page 23, between lines 31 and 32, begin a new line blocked left and insert:

"However, all personnel file information shall be made available to an affected member or the member's representative."

Page 23, line 33, after "information" insert "contained in files described in subsection (a)".

- 1 Page 24, delete lines 2 through 3.
- 2 Page 24, between lines 9 and 10, begin a new paragraph and insert:
- 3 "SECTION 40. [EFFECTIVE JULY 1, 2006] **Notwithstanding**
- 4 **IC 8-3-23-2, as added by this act, a rail operator shall adopt a**
- 5 **community protection plan as described in IC 8-3-23-2, as added**
- 6 **by this act, not later than July 15, 2007."**
- 7 Renumber all SECTIONS consecutively.
(Reference is to ESB 247 as printed February 17, 2006.)

Representative Tincher